

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA

Application of Pacific Gas and Electric Company for Authority to Increase Revenue Requirements to Recover the Costs to Upgrade its SmartMeter™ Program (U 39 E).

Application 07-12-009  
(Filed December 12, 2007)

**PREHEARING CONFERENCE STATEMENT  
OF THE DIVISION OF RATEPAYER ADVOCATES**

**I. INTRODUCTION AND SUMMARY**

On August 6, 2010, Administrative Law Judge (ALJ) Sullivan issued a Ruling Setting Prehearing Conference to address the petition of the City and County of San Francisco (CCSF) asking for a temporary suspension of PG&E's installation of SmartMeters™ until the Commission concludes its investigation into problems that have accompanied PG&E's SmartMeter™ deployment. In that ruling, ALJ Sullivan asked parties to prepare short Prehearing Conference (PHC) statements addressing three questions. The Division of Ratepayer Advocates (DRA)'s responses can be summarized as follows:

- PG&E likely has the facts needed to decide whether or not it should suspend the installation. The Commission should immediately direct PG&E to report on whether the added costs that PG&E would incur, if deployment were temporarily suspended until completion of the investigation, would outweigh the potential costs of continuing deployment, and to determine whether it would be prudent to suspend deployment. The Commission should warn PG&E that added costs that could have been avoided by a temporary suspension may be disallowed.

- The Commission should not wait for the investigation report to address CCSF's Petition, but should hold this proceeding open to consider the report as soon as it becomes available, and to decide what further action is warranted. The report may shed light on how serious the SmartMeter™ installation problems are and on whether PG&E acted prudently in deciding to suspend or not to suspend the installation.
- When the investigation report is made available, the Commission should consider, with the participation of the parties, what further action may be warranted with respect to PG&E's SmartMeter™ deployment.

These recommendations are explained briefly in the next section.

## **II. RESPONSES TO THE QUESTIONS POSED IN ALJ RULING SETTING PREHEARING CONFERENCE**

### **1. Do available facts support the immediate suspension of PG&E's program of installing SmartMeters™?**

At this time, only PG&E has the information necessary to determine whether it would be prudent to suspend the SmartMeter™ deployment pending completion of the Commission investigation. PG&E must be aware of the nature and severity of the problems, and must have some idea whether its efforts to address those problems have been effective. Accordingly, the Commission should immediately direct PG&E to report, on the record of this proceeding:

- 1) The nature of the additional costs that would be incurred by suspending deployment, and an estimate of those costs.
- 2) The nature of the potential costs that could be avoided by suspension, given what is known about the nature of the problems with the SmartMeter™ deployment at this time, and an estimate of those costs.
- 3) Whether, in light of the cost information described above, the costs PG&E would incur if the deployment is temporarily suspended now would outweigh the potential costs of continuing deployment during the investigation.

The Commission should direct PG&E to determine whether, in light of the cost information to be provided, it would be prudent to suspend deployment pending completion of the investigation as requested by CCSF. Further, the Commission should warn PG&E that if continues to oppose temporary suspension, and the Commission allows the deployment to proceed, PG&E risks disallowance of costs that could have been avoided by suspension.<sup>1</sup> Finally, PG&E should also be directed to consider and report on whether a temporary suspension is likely to minimize inconvenience or other harm to customers (for example, if there are safety concerns).

**2. Should the Commission defer action until the receipt of the report researching the new meters and the installation program? Is it possible to commence with this proceeding in a way that permits the incorporation of the projected Commission report?**

The Commission should not defer action until receipt of the report, assuming it will be at least a few more weeks before it is released. To defer action until the report is released is in effect to deny the relief sought in the Petition, and to preclude any other action the Commission might take to address the concerns raised by CCSF. Such a de facto denial is not justified, because it is possible to address the request for a suspension immediately (as is appropriate given the nature of the relief requested), *and* the report as soon as it becomes available. DRA has proposed a way to do both.

The recommendation made by DRA in response to Question 1 above can and should be implemented immediately. The Commission need not wait for the report to provide the necessary direction to PG&E, and PG&E should not wait for the report to determine whether it would be prudent to suspend deployment. Conceivably, if PG&E were expressly directed now to consider whether temporary suspension is

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<sup>1</sup> As noted in DRA's response to the Petition, if PG&E incurs cost overruns exceeding \$100 million and some of those costs could have been avoided by a temporary suspension, PG&E should be required to demonstrate that it considered seriously the option of suspending the deployment, and explain why it chose the action it took.

prudent as outlined above, it could rethink its position, even before the report is made available. And if the Commission finds that more information is necessary in order to rule on the request for a suspension, any additional information that PG&E provides in an expeditious manner may meet that need. These steps can be taken immediately, without waiting for the report.

**3. If the Commission elects to consider this petition further, what should be the scope and timetable of its review of the SmartMeter™ program? If hearings are recommended, what are the factual issues in dispute? What, if any, legal issues are implicated?**

As discussed above, in DRA's view, the primary factual issue with respect to CCSF's request for an immediate suspension is whether the costs of suspension outweigh the potential costs of continuing deployment during the investigation. Although this is a factual issue that could be disputed, the time required for hearings would make it impossible to grant the relief requested. For this reason, DRA recommends a solution that can be quickly implemented, as outlined above.

Regardless of when and how the Commission rules on CCSF's request to suspend deployment, it will be important to consider the findings of the investigation report, so this proceeding should be kept open to consider those findings when the report becomes available. That information ultimately will be needed to shed light on whether PG&E made a prudent decision to suspend or continue its SmartMeter™ installation. The report should inform decisions on what further action is needed, including whether and on what conditions to resume deployment (if it has been suspended), or to suspend deployment (if deployment has continued).

When the Structure Group's report is made available, parties should be given an opportunity to review it. At that point, it may be appropriate to schedule another PHC to consider what issues need to be resolved and what further process is needed to resolve them.

### III. CONCLUSION

DRA recommends that the Commission act promptly on the Petition by, at a minimum, directing PG&E to determine whether temporary suspension of its SmartMeter™ deployment pending the investigation is more likely to minimize added costs than continuing with deployment. Regardless of how the Commission rules on the Petition, this proceeding should be kept open to address the results of the investigation report as soon as they become available.

Respectfully submitted,

/s/ KAREN PAULL

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August 16, 2010

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served a copy of **PREHEARING CONFERENCE STATEMENT OF THE DIVISION OF RATEPAYER ADVOCATES** to the official service list in **A.07-12-009** by using the following service:

**E-Mail Service:** sending the entire document as an attachment to all known parties of record who provided electronic mail addresses.

**U.S. Mail Service:** mailing by first-class mail with postage prepaid to all known parties of record who did not provide electronic mail addresses.

Executed on **August 16, 2010** at San Francisco, California.

/s/ CHARLENE D. LUNDY

Charlene D. Lundy

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